



January 30, 2001

Mr. Volly C. Bastine, Jr.  
Office of General Counsel  
Housing Authority of the City of Houston  
P.O. Box 2971  
Houston, Texas 77252-2971

OR2001-0339

Dear Mr. Bastine:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 143713.

The Housing Authority of the City of Houston (the "HACH") received a request for documents detailing names of Section 8 clients and rental histories associated with certain properties. You claim that the requested information is excepted from public disclosure pursuant to section 552.101 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Section 552.101 excepts from required public disclosure information that is considered confidential by law, either constitutional, statutory, or by judicial decision. This section encompasses information protected by other statutes. You claim that the responsive documents are protected from disclosure pursuant to the Federal Privacy Act (the "Act"), 5 U.S.C. § 552a.

You inform us that the HACH is a body, corporate and politic, constituted pursuant to the laws of the State of Texas, specifically section 392 *et al.* of the Local Government Code. In addition, you state that the HACH operates on funds allocated by the U.S. Department of Housing and Urban Development. We note that the Act applies only to a federal agency. *See* OMB Guidelines, 40 Fed. Reg. 28,948, 28,950-51 (1975). State and local government agencies are not covered by the Act. *See Davidson v. Georgia*, 622 F. 2d 895, 896 (5<sup>th</sup> Cir. 1980); *see also* Attorney General Opinion MW-95 (1979). In addition, neither the receipt of federal funds nor federal regulation convert such entities into agencies covered by the Act. *See St. Michaels Convalescent Hosp. v. California*, 643 F. 2d 1369, 1373 (9<sup>th</sup> Cir. 1981).

Because the HACH is not a federal agency, it is not bound by the Act's confidentiality provisions as would be a federal agency. Therefore, the requested information cannot be considered confidential by law pursuant to section 552.101 of the Government Code in conjunction with the Federal Privacy Act.

You also claim that the responsive documents are protected from disclosure under section 552.101 in conjunction with section 2306.039 of the Government Code. Section 2306.039 provides:

(a) Except as provided by Subsection (b), the department and the Texas State Affordable Housing Corporation are subject to Chapters 551 and 552.

(b) This section does not apply to the personal financial information submitted by an individual or family for a loan, grant, or other housing assistance under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department, except that the department and the corporation are permitted to disclose information about any applicant in a form that does not reveal the identity of the individual or family for purposes of determining eligibility for programs and in preparing reports required under this chapter.

You assert that section 2306.039 restricts authorities from disclosing information about any applicant in a form that reveals the identity of the individual or family for purposes not connected with determination of eligibility for programs and the preparing of reports required under the respective chapters. However, section 2306.039(b) actually applies to "*personal financial information* submitted by the individual or family *for a loan, grant, or other housing assistance* under a program administered by the department." Gov't Code §2306.039(b) (emphasis added). The responsive information that you have submitted does not include such information. Therefore, the requested information cannot be considered confidential by law pursuant to section 552.101 in conjunction with section 2306.039 of the Government Code. Accordingly, the HACH must release all responsive information.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the

governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

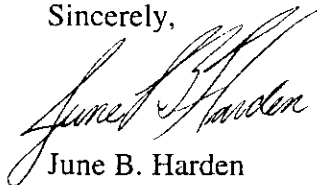
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/rjb/seg

Ref: ID# 143713

Encl. Submitted documents

cc: Mr. Wayne Dolcefino  
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(w/o enclosures)